

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1525

Citations Affected: IC 35-40-6-4; IC 35-44-3-3; IC 35-44-3-9; IC 35-46-1-8.

Synopsis: Various criminal law matters. Conference committee report for EHB 1525. Provides that unless ordered by the court, a prosecutor may not disclose information identifying a crime victim during discovery and other proceedings. Provides that the court may impose reasonable restrictions on disclosures of crime victim identifying information. Makes the offense of resisting law enforcement a Class D felony instead of a Class A misdemeanor if, while committing the offense, a person draws or uses a deadly weapon or inflicts bodily injury on another person. Makes the offense a Class C felony if: (1) a person uses a vehicle to flee from a law enforcement officer; or (2) while committing the offense, a person operates a vehicle in a manner that creates a substantial risk of bodily injury to another person or causes serious bodily injury to another person. Provides a defense to the offense of trafficking with an inmate. Provides that certain penal facility employees are entitled to a review of an adverse employment determination based upon trafficking with an inmate. Makes contributing to delinquency a Class C felony instead of a Class A misdemeanor if a person furnishes alcohol or a controlled substance to a minor and consumption of the alcohol or drug is the proximate cause of the death of any person. **(This conference committee report: (1) removes provisions concerning ignition interlock devices and probationary driving privileges; and (2) adds the provisions described above concerning crime victim identifying information, the offense of resisting law enforcement, and the offense of trafficking with an inmate.)**

Effective: January 1, 2001 (retroactive); July 1, 2003.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1525 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 35-40-6-4, AS ADDED BY P.L.139-1999,
- 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2003]: Sec. 4. **(a) As used in this section, "identifying**
- 5 **information" has the meaning set forth in IC 35-43-5-1.**
- 6 **(b)** A prosecuting attorney or a victim assistance program shall do
- 7 the following:
- 8 (1) Inform a victim that the victim may be present at all public
- 9 stages of the criminal justice process to the extent that:
- 10 (A) the victim's presence and statements do not interfere with a
- 11 defendant's constitutional rights; and
- 12 (B) there has not been a court order restricting, limiting, or
- 13 prohibiting attendance at the criminal proceedings.
- 14 (2) Timely notify a victim of all criminal justice hearings and
- 15 proceedings that are scheduled for a criminal matter in which the
- 16 victim was involved.
- 17 (3) Promptly notify a victim when a criminal court proceeding has
- 18 been rescheduled or canceled.
- 19 (4) Obtain an interpreter or translator, if necessary, to advise a
- 20 victim of the rights granted to a victim under the law.
- 21 (5) Coordinate efforts of local law enforcement agencies that are
- 22 designed to promptly inform a victim after an offense occurs of the

availability of, and the application process for, community services for victims and the families of victims, including information concerning services such as the following:

- (A) Victim compensation funds.
- (B) Victim assistance resources.
- (C) Legal resources.
- (D) Mental health services.
- (E) Social services.
- (F) Health resources.
- (G) Rehabilitative services.
- (H) Financial assistance services.
- (I) Crisis intervention services.
- (J) Transportation and child care services to promote the participation of a victim or a member of the victim's immediate family in the criminal proceedings.

(6) Inform the victim that the court may order a defendant convicted of the offense involving the victim to pay restitution to the victim under IC 35-50-5-3.

(7) Upon request of the victim, inform the victim of the terms and conditions of release of the person accused of committing a crime against the victim.

(8) Upon request of the victim, give the victim notice of the criminal offense for which:

- (A) the defendant accused of committing the offense against the victim was convicted or acquitted; or
- (B) the charges were dismissed against the defendant accused of committing the offense against the victim.

(9) In a county having a victim-offender reconciliation program (VORP), provide an opportunity for a victim, if the accused person or the offender agrees, to:

- (A) meet with the accused person or the offender in a safe, controlled environment;
- (B) give to the accused person or the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim and the victim's family; and
- (C) negotiate a restitution agreement to be submitted to the sentencing court for damages incurred by the victim as a result of the offense.

(10) Assist a victim in preparing verified documentation necessary to obtain a restitution order under IC 35-50-5-3.

(11) Advise a victim of other rights granted to a victim under the law.

(c) Except as provided in subsection (d), a prosecuting attorney shall not disclose victim identifying information during discovery and other proceedings.

(d) For good cause shown, the court may order the disclosure of victim identifying information. The court may impose reasonable restrictions on the disclosure of victim identifying information, including a requirement that the identifying information not be disclosed to the defendant.

SECTION 2. IC 35-44-3-3 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A person who knowingly or intentionally:

(1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of ~~his~~ **the law enforcement officer's** duties as an officer;

(2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or

(3) flees from a law enforcement officer after the officer has, by visible or audible means, identified himself ~~or herself~~ and ordered the person to stop;

commits resisting law enforcement, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense under subsection (a) is a:

(1) Class D felony if,

~~(A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or~~

~~(B) while committing any offense described in subsection (a), the person draws or uses a deadly weapon or inflicts bodily injury on another person; or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;~~

(2) Class C felony if:

~~(A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or~~

~~(B) while committing any offense described in subsection (a), the person operates a vehicle in a manner that:~~

~~(i) creates a substantial risk of bodily injury to another person; or~~

~~(ii) causes serious bodily injury to another person; and~~

(3) Class B felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of another person.

(c) For purposes of this section, a law enforcement officer includes an alcoholic beverage enforcement officer and a conservation officer of the department of natural resources.

SECTION 3. IC 35-44-3-9, AS AMENDED BY P.L.243-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)]: Sec. 9. (a) As used in this section, "juvenile facility" means the following:

(1) A secure facility (as defined in IC 31-9-2-114) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(2) A shelter care facility (as defined in IC 31-9-2-117) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(b) A person who, without the prior authorization of the person in charge of a penal facility or juvenile facility knowingly or intentionally:

(1) delivers, or carries into the penal facility or juvenile facility

with intent to deliver, an article to an inmate or child of the facility;
 (2) carries, or receives with intent to carry out of the penal facility
 or juvenile facility, an article from an inmate or child of the
 facility; or

(3) delivers, or carries to a ~~work site~~ **worksite** with the intent to
 deliver, alcoholic beverages to an inmate or child of a jail work
 crew or community work crew;

commits trafficking with an inmate, a Class A misdemeanor. However,
 the offense is a Class C felony if the article is a controlled substance or
 a deadly weapon.

**(c) It is a defense to a charge under subsection (b)(1) that the
 article delivered to an inmate or child was:**

**(1) not contraband (as defined in IC 11-11-2-1) or prohibited
 property (as defined in IC 11-11-2-1);**

**(2) necessary for the health or safety of the inmate or child;
 and**

**(3) delivered because the facility had not provided the inmate
 or child with the article after the inmate, the child, or an
 employee of the facility requested the article.**

SECTION 4. IC 35-46-1-8 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a)** A person **at least** eighteen
 (18) years of age ~~or older~~ who knowingly or intentionally encourages,
 aids, induces, or causes a person ~~under less than~~ eighteen (18) years of
 age to commit an act of delinquency (as defined by IC 31-37-1 or
 IC 31-37-2) commits contributing to delinquency, a Class A
 misdemeanor.

(b) However, ~~the~~ **an offense described in subsection (a)** is a Class
 C felony if:

(1) the:

(A) person knowingly or intentionally furnishes:

**(i) an alcoholic beverage to a person less than eighteen (18)
 years of age in violation of IC 7.1-5-7-8 when the person
 knew or reasonably should have known that the person
 was less than eighteen (18) years of age; or**

**(ii) a controlled substance (as defined in IC 35-48-1-9) or
 a drug (as defined in IC 9-13-2-49.1) in violation of Indiana
 law; and**

**(B) consumption, ingestion, or use of the alcoholic beverage,
 controlled substance, or drug is the proximate cause of the
 death of any person; or**

**(2) the person is at least eighteen (18) years of age and
 knowingly or intentionally encourages, aids, induces, or causes a
 person less than eighteen (18) years of age to commit an act that
 would be a felony if committed by an adult under **any of the
 following:****

~~(1)~~ **(A)** IC 35-48-4-1.

~~(2)~~ **(B)** IC 35-48-4-2.

~~(3)~~ **(C)** IC 35-48-4-3.

~~(4)~~ **(D)** IC 35-48-4-4.

~~(5)~~ **(E)** IC 35-48-4-4.5.

~~(6)~~ **(F)** IC 35-48-4-4.6. ~~or~~

1 ~~(7)~~ **(G)** IC 35-48-4-5.

2 SECTION 5. [EFFECTIVE JULY 1, 2003] **IC 35-44-3-3 and**
3 **IC 35-46-1-8, both as amended by this act, apply only to offenses**
4 **committed after June 30, 2003.**

5 SECTION 6. [EFFECTIVE JULY 1, 2003] **(a) An employee of a**
6 **penal facility who was the subject of an adverse employment**
7 **decision based on a violation of IC 35-44-3-9(b)(1) involving the**
8 **delivery of an article that was not contraband (as defined in**
9 **IC 11-11-2-1) or prohibited property (as defined in IC 11-11-2-1)**
10 **after January 1, 2002, and before July 1, 2003, is entitled to a**
11 **redetermination of any employment action taken in response to the**
12 **violation, including but not limited to, a rehearing or**
13 **reinstatement.**

14 **(b) This SECTION expires July 1, 2008.**

15 SECTION 7. **An emergency is declared for this act.**

(Reference is to EHB 1525 as printed April 4, 2003.)

Conference Committee Report
on
Engrossed House Bill 1525

Signed by:

Representative Kuzman
Chairperson

Senator Landske

Representative Duncan

Senator Mrvan

House Conferees

Senate Conferees